

Office of the Mayor
Chokwe A. Lumumba, Mayor



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EXECUTIVE ORDER NO. 2019-6

EXECUTIVE ORDER ESTABLISHING POLICY AND PRESCRIBING PROCEDURE FOR OVERTIME COMPENSATION TO CITY OF JACKSON, MISSISSIPPI PUBLIC SAFETY EMPLOYEES (SWORN) PURSUANT TO FAIR LABOR STANDARDS ACT (FLSA)

This Executive Order supersedes any and all prior Executive Orders pertaining to compensation to the City of Jackson, Mississippi Public Safety Employees (SWORN) pursuant to the Fair Labor Standards Act (FLSA). This Executive Order supersedes any conflicting Department or Division directives, policies, rules, regulations and guidelines.

OVERVIEW/ PURPOSE

The purpose of this policy and procedure is to describe and set forth the policy and prescribed procedure for compensation to City of Jackson, Mississippi Public Safety Employees (SWORN) pursuant to the Fair Labor Standards Act. This policy and procedure also govern the following:

1. Overtime Compensation for Sworn, Non-exempt Public Safety Employees
2. Compensatory or Deferred Time for Sworn, Exempt Public Safety Employees
3. Overtime and/or Compensatory Time Accrual and Limitations for Sworn Public Safety Employees
4. Procedure for Documenting Overtime Compensation
5. Violations of Policy and Disciplinary Action

The need to earn compensatory time shall be the exception rather than the rule. The requirement to work additional, non-scheduled hours should be used after other alternatives have been fully explored, such as the rescheduling of priorities, balancing workload peaks, offering excess hours with reduced work hours later in the workweek, and revising the workweek so that weekend work can be performed at straight time.

DEFINITIONS

Fair Labor Standards Act (FLSA):

The Act that regulates employee overtime status (exempt and non-exempt), child labor, minimum wage, overtime pay, employee record keeping and other administrative concerns (e.g. penalties, compliance and enforcement of the Act).

Work Period:

The declared work period for sworn public safety employees is 12:00 am Sunday to 11:59 pm the second following Saturday, a consecutive 14 days.

Executive Order No. (2019-6)

This work period permits non-exempt, sworn law enforcement employees to work 86 hours during the aforementioned 14 consecutive day work period before becoming eligible for overtime.

This work period permits non-exempt sworn emergency responders and sworn fire protection employees to work 106 hours during the aforementioned 14 consecutive day work period before becoming eligible.

Pay Period:

A pay period consists of work performed in a 14 consecutive day work period.

Sworn Public Safety Employee:

A sworn public safety employee is an employee working for the City, a public agency and political subdivision of the State of Mississippi, engaged in work activities involving public safety, including law enforcement, emergency response and/or fire protection as defined by Sections 7 and 13(b)(2) of the FLSA, and 20 CFR 553.20, *et seq.*

Non-exempt Employees:

Employees covered under the Fair Labor Standard Act regulation, including minimum wage and overtime pay requirements.

Exempt Employees:

Employees who are excluded from the Fair Labor Standards Act minimum wage and overtime pay requirements. Sworn public safety employees may be exempt employees depending on such employee's salary and job duties (commonly identified by rank).

Overtime:

The number of hours worked by a FLSA-covered, non-exempt public safety employee in excess of the hours worked by a sworn, non-exempt public safety employee in the permitted work period. Stated differently, sworn, non-exempt public safety employees, pursuant to the FLSA, do not accrue overtime for hours worked over 40 in a seven-day workweek.

Sworn, non-exempt public safety employees in law enforcement are eligible for overtime beginning at the time the sworn, non-exempt

law enforcement employee works in excess of 86 hours in a work period. Likewise, sworn, non-exempt public safety employees in fire protection are eligible for overtime beginning at the time the sworn, non-exempt fire protection employee works in excess of 106 hours in a work period.

Pursuant to the FLSA, the City, as a public agency and political subdivision of the State of Mississippi is authorized to provide such FLSA-covered, non-exempt public safety employees with either compensatory time at a rate of time and a half for each hour of overtime worked (monetary payment).

1. Overtime Compensation for Sworn, Non-exempt Public Safety Employees

a. Accrual of Compensatory Time for Sworn Non-exempt Public Safety

Sworn, non-exempt public safety employees accrue compensatory time at the rate of time and a half for each hour of time worked in excess of their scheduled work period. Accrual of such compensatory time only occurs where any such sworn non-exempt public safety employee actually works in excess of 86 hours as a sworn, non-exempt law enforcement employee in a work period. Likewise, accrual of such compensatory time only occurs where any such sworn non-exempt public safety employee actually works in excess of 106 hours as a sworn non-exempt fire protection employee in a work period. For the purpose of calculation hours actually worked, hours obtained from vacation, sick or other type leave are not counted and/or included.

b. Compensatory Time in Lieu of Monetary Payment to Sworn, Non-exempt Public Safety Employees

Sworn, non-exempt public safety employees will accrue compensatory time in lieu of monetary payment at time and a half for each hour of time worked in excess of their scheduled work period. The awarding of compensatory time in lieu of monetary payment at time and a half for each hour of time worked in excess of their scheduled work period is a term and condition of the employment, which a non-exempt public safety employee is presumed to accept if he continues in employment with the City and works in excess of the scheduled work period.

c. Monetary Payment of Overtime Wages instead of Compensatory Time to Sworn, Non-exempt Public Safety Employees

The City may, in certain circumstance, and depending upon budgeted funds, elect to pay sworn, non-exempt public employees' monetary payment instead of compensatory time, as set forth in paragraphs a. and b. above. Monetary payments for overtime wages to sworn, non-exempt public safety employees will be calculated at time and a half for each

hour of overtime worked. Certain circumstance may include but are not limited to, events such as:

- (1) An emergency
- (2) Inclement Weather
- (3) Nonexempt employees whose regularly hourly rate is less than the amount of fifteen dollars (\$15.00).

As set forth previously herein, in such circumstances, the department director, deputy directors, managers and/or supervisors of all such sworn, non- exempt public safety employees who earn compensatory time and/or overtime are required to submit supporting documentation. Failure to submit documentation may result in disciplinary action, up to and including dismissal and/or termination.

d. **Working “Off the Clock” is not permitted.**

Department director, deputy directors, managers and/or supervisors of all sworn, non-exempt public safety employees are expected to and shall take steps to eliminate the occurrence of unauthorized work by sworn, non- exempt public safety employees. Such department directors, deputy directors, managers and/ or supervisors shall clearly advise all working, non-exempt public safety employees working “off the clock” is not permitted and that violations of this policy, other applicable policies or the Fair Labor Standards Act may result in disciplinary action, up to and including dismissal and/or termination.

2. Compensatory or Deferred Time- off for Sworn, Exempt Public Safety Employees

Sworn, exempt public safety employees *may*, at the discretion of the department head, receive compensatory or deferred time off at the rate of one hour for each hour worked in excess of their regularly scheduled work period. This is commonly referred to as straight time. As it relates to compensatory or deferred time off for sworn, exempt public safety employees, the City may, in certain circumstances and depending upon budgeted funds, elect to compensate sworn, exempt public safety employees with monetary payments in lieu of compensatory time off, calculated at a rate of one hour for each hour worked in excess of their regularly scheduled work period.

Department directors, deputy directors, managers and/or supervisors of all sworn, exempt public safety employees are required to submit documentation. Failure to submit documentation may result in disciplinary action, up to and including dismissal and/or termination.

3. Compensatory Time Accrual and Limitation for Sworn Public Safety Employees

a. **Sworn, Non-exempt Public Safety Employees**

Sworn, non-exempt public safety employees may not accrue more than 160 hours of compensatory time which when converted at a rate of time and one half equates to 240 hours worked. Employees must receive monetary compensation for any hours in excess of the maximum accrual of compensatory time. The City may, in its discretion,

require sworn, non-exempt public safety employees, to utilize any accrued compensatory time first, in lieu of either sick time or other personal leave time.

b. Sworn, Exempt Public Safety Employees

Employees who are exempt from the Fair Labor Standards Act (FLSA) can accrue a maximum of 112 hours of compensatory or deferred time-off in a year. The accrual of such time-off for exempt employees, does not roll over, may not be paid in cash and will expire if not taken within one year. Department directors, deputy directors, managers and/or supervisors shall monitor exempt employee's accrual of compensatory or deferred time-off to ensure that employees have the opportunity to take compensatory or deferred time-off as schedules permit and that the accrual does not exceed 112 hours at any given time. Failure to do so may result in disciplinary action, up to and including dismissal and/or termination.

4. Compensatory Time Taken Within Same Pay Period Earned

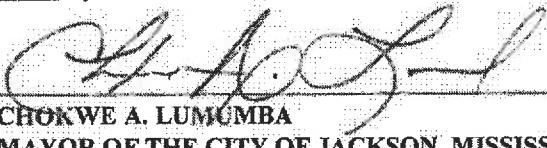
Compensatory time earned during a given pay period should be taken within the same period whenever possible.

Any employee utilizing Kronos as the time keeping methods should assign and manage work hours in accordance with the *Kronos Attendance and Time Keeping Policy*. It is most important to document non-exempt compensatory time. Failure to do so may result in disciplinary action, up to and including dismissal and/or termination.

5. Violation of this Policy and Disciplinary Action

ALL employees, exempt and non-exempt, including, but not limited to department directors, deputy directors, managers and/or supervisors, are expected to comply with this policy, other applicable policies and the Fair Labor Standards Act. Failure to comply with this policy, other applicable policies and the Fair Labor Standards Act by any sworn public safety employee, exempt and non-exempt, including, but not limited to, department directors, deputy directors, managers and/or supervisors, may result in disciplinary action, up to and including dismissal and/or termination.

SO ORDERED, this the 18th day of November, 2019



CHOKWE A. LUMUMBA
MAYOR OF THE CITY OF JACKSON, MISSISSIPPI

This document is a general reference only. It is not intended as a contract and does not provide any legal advice or rights. If a discrepancy exists between this policy and procedure and the City Code, State Law or Federal Law, such Law takes precedence.

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Chokwe A. Lumumba, Mayor



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EXECUTIVE ORDER NO. 2019-7

EXECUTIVE ORDER ESTABLISHING POLICY AND PRESCRIBING PROCEDURE FOR OVERTIME COMPENSATION TO CITY OF JACKSON, MISSISSIPPI EMPLOYEES (NONSWORN) PURSUANT TO FAIR LABOR STANDARDS ACT (FLSA)

This Executive Order supersedes any and all prior Executive Orders pertaining to compensation to the City of Jackson, Mississippi Employees (NONSWORN) pursuant to the Fair Labor Standards Act (FLSA). This Executive Order supersedes any conflicting Department or Division directives, policies, rules, regulations and guidelines.

OVERVIEW/PURPOSE

The purpose of this policy and procedure is to describe and set forth the policy and prescribed procedure for compensation to the City of Jackson, Mississippi Employees (NONSWORN) pursuant to the Fair Labor Standards Act. This policy and procedure also govern the following:

1. Overtime Compensation for Non-exempt Employees
2. Compensatory or Deferred Time for Exempt Employees
3. Overtime and/or Compensatory Time Accrual and Limitations
4. Procedures for Documenting Overtime Compensation
5. Violations of Policy and Disciplinary Action

The need to earn compensatory time shall be the exception rather than the rule. The requirement to work additional, non-scheduled hours should be used after other alternatives have been fully explored, such as the rescheduling of priorities, balancing workload peaks, offsetting excess hours with reduced work hours later in the workweek, and revising the work week, and revising the workweek so that weekend work can be performed at straight time.

DEFINITIONS

Fair Labor Standards Act (FLSA):

The Act that regulates employee overtime status (exempt and non-exempt, sworn and non-sworn), child labor, minimum wage, overtime pay, employee record keeping and other administrative concerns (e.g., penalties, compliance and enforcement of the Act).

Work Period:

The declared work period for non-sworn employees is 12:00 am Sunday to 11:59 pm the following Saturday. The phrase work period is interchangeable with workweek.

Pay Period:

A pay period for non-sworn employees consists of work performed in one work period or two consecutive work periods.

Non-Sworn Employee:

An employee working for the City who is not engaged in work activities involving public safety, including law enforcement, emergency response and/or fire protection as defined by Sections 7 and 13(b)(2) of the FLSA, and 29 CFR 553.200, et seq.

Non-exempt Employees:

Employees covered under the Fair Labor Standards Act regulations, including minimum wage and overtime pay requirements.

Exempt Employees:

Employees who are excluded from the Fair Labor Standards Act minimum wage and overtime pay requirements.

Overtime:

The number of hours worked by a FLSA-covered, non-exempt employee in excess such employee's regular 40 hours work period, within a seven (7) day consecutive work period. Pursuant to the FLSA, the City, as a public agency and political subdivision of the State of Mississippi, is authorized to provide such FLSA-covered, non-exempt employees with either compensatory time at a rate of time and a half for each hour of overtime worked ("comp time"), or monetary compensation at a rate of time and a half for each hour of overtime worked (monetary payment).

1. Overtime Compensation for Non-exempt Employees

a. Accrual of Compensatory Time for Non-exempt Employees

Non-exempt employees accrue compensatory time at the rate of time and a half for each hour of time worked in excess of their scheduled workweek. Accrual of such compensatory time only occurs where any such non-exempt employee actually works in excess of 40 hours in a workweek. For the purpose of calculating hours actually worked, hours obtained from vacation, sick or other type leave are not counted and/or included.

b. Compensatory Time in Lieu of Monetary Payment

Non-exempt employees will accrue compensatory time in the lieu of cash payment at time and a half for each hour of time worked in excess of their scheduled workweek. The awarding of compensatory time in lieu of monetary payment at time and a half for each hour of time worked in excess of their scheduled work period is a term and condition of the employment with the City and works in excess of the scheduled work period.

c. Monetary Payment of Overtime Wages instead of Compensatory Time

The City may, in certain circumstances, and depending on available budgeted funds, elect to pay non-exempt employees who work in excess of 40 hours a workweek monetary payment instead of compensatory time, as set forth in paragraph **b.** above. Cash payments for overtime wages to non-exempt employees will be calculated at time and a half for each hour of overtime worked. Certain circumstances may include but are not limited to, events such as:

- (1) An emergency declaration;
- (2) Inclement Weather; and/or
- (3) Non-exempt employee(s) whose regularly hourly rate is less than the amount of Fifteen Dollars (\$15.00).

As set forth previously herein, in such circumstances, the department directors, deputy directors, managers and/or supervisors of all such non-exempt employees who can earn compensatory time or overtime are required to submit supporting documentation. Failure to submit documentation may result in disciplinary action, up to and including dismissal and/or termination.

d. Working “Off the Clock” is not permitted

Department directors, deputy directors, managers and/or supervisors of all non-exempt employees are expected to and shall take steps to eliminate the occurrence of unauthorized work by non-exempt employees. Such department directors, deputy directors, managers and/or supervisors shall clearly advise all non-exempt the working “off the clock” is not permitted and that violations of this policy, other applicable policies or the Fair Labor Standards Act may result in disciplinary action, up to and including dismissal and/or termination.

2. Compensatory or Deferred Time for Exempt Employees

Exempt employees may, at the discretion of the department-head, receive compensatory time off at the rate of one hour for each hour worked in excess of their regularly scheduled work hours.

Department directors, deputy directors, managers and/or supervisors of all exempt employees are required to submit documentation requesting compensatory or deferred time-off to exempt employees through the chain of command for consideration. Failure to submit documentation may result in disciplinary action, up to and including dismissal and/or termination.

3. Compensatory Time Accrual and Limitations

a. Non-exempt Employees

Non-exempt employees may not accrue more than 160 hours of compensatory time, which when converted at a rate of time and one half equates to 240 hours worked. Employees must receive monetary compensation for any hours in excess of the maximum accrual of compensatory time. The City may, in its discretion, require non-exempt employees to utilize first any accrued compensatory time, and in lieu of either sick time or other personal leave time.

b. Exempt Employees

Employees who are exempt from the Fair Labor Standards Act (FLSA) can accrue a maximum of 112 hours of compensatory or deferred time-off in a year. The accrual of such time-off for exempt employees, does not roll over, may not be paid in cash and will expire if not taken within one year. Department directors, deputy directors, managers and/or supervisors shall monitor exempt employee's accrual of compensatory or deferred time-off to ensure that employees have the opportunity to take compensatory or deferred time-off as schedules permit and that the accrual does not exceed 112 hours at any given time. Failure to do so may result in disciplinary action, up to and including dismissal and/or termination.

4. Compensatory Time Taken Within Same Pay Period Earned

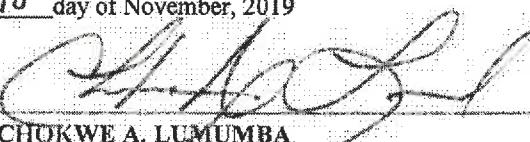
Compensatory time earned during a given pay period should be taken within the same pay period whenever possible.

Any employee utilizing Kronos as the timekeeping method should assign and manage work hours in accordance with the *Kronos Attendance and Time Keeping Policy*. It is most important to document non-exempt compensatory time in order to demonstrate the accurate use of compensatory time. Failure to do so may result in disciplinary action, up to and including dismissal and/or termination.

5. Violations of this Policy and Disciplinary Action

ALL employees, exempt and non-exempt, including, but not limited to, department directors, deputy directors, managers and/or supervisors, are expected to comply with this policy, other applicable policies or the Fair Labor Standards Act may result in disciplinary action, up to and including dismissal and/or termination. Failure to comply with this policy by an employee, exempt and non-exempt, including, but not limited to, department directors, deputy directors, managers and/or supervisors, may result in disciplinary action, up to and including dismissal and/or termination.

SO ORDERED, this the 18th day of November, 2019



CHOKWE A. LUMUMBA
MAYOR OF THE CITY OF JACKSON, MISSISSIPPI

This document is a general reference only. It is not intended as a contract and does not provide any legal advice or rights. If a discrepancy exists between this policy and procedure and the City Code, State Law or Federal Law, such Law takes precedence.